

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,) CASE NO. 3:73-cv-00127-MMD-WGC
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Plaintiff,)
)
WALKER RIVER PAIUTE TRIBE,)
)
Plaintiff-Intervenor,) MINUTES OF PROCEEDINGS
)
vs.)
)
WALKER RIVER IRRIGATION)
DISTRICT, et al.)
)
Defendants.) DATED: August 7, 2019
_____)

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Karen Walker REPORTER: Liberty Court Recorder

COUNSEL PRESENT: Andrew Guarino, Esq., Tyler Eastman, Esq., Wes Williams, Jr., Esq.,
Gordon DePaoli, Esq., James Bolotin, Esq., Dale Ferguson, Esq., Tori Sundheim, Esq.,
Christopher Mixon, Esq., Nhu Nguyen, Esq., Therese Ure, Esq.

COUNSEL APPEARING BY PHONE: Brad Johnston, Esq., Iris Thornton, Esq., Simeon
Herskvits, Esq., Miles Kreger, Esq., Jason, Canger, Esq., Roderick Walston, Esq., Harry
Swainston, Pro Se

MINUTES OF PROCEEDINGS: Status Conference

10:08 a.m. Court convenes.

The court is in receipt of the proposed agenda (ECF No. 2551) and will follow the
discussion points listed on page 2 for today's conference.

Agenda item 1: **The Principal Parties' Recommendations on the Substitution of Parties concerning the process for substitution of parties, requests to be removed from email notifications, and service issues for unrepresented entities.**

ECF Nos. 2434 Notice of Change of Ownership of Water Right/ and 2485 – Order (See also Exhibit A (ECF No. 2556-1) attached hereto):

The court and principal counsel confer regarding the VanSyoc Notice of Change of Ownership of Water Right (ECF No. 2434). After discussion with counsel, the court notes the request was not regarding transfer of a water right but pertains to certain individual ownership of stock in the Antelope Valley Mutual Water Company (AVMWC) which is and remains a party defendant in this action. This transfer of stock rights would not necessitate court approval, nor does it affect defendant party AVMWC.

Despite the language in Order (ECF No. 2485), the court will not proceed with the requested substitution of Mr. VanSyoc with Ms. VanSyoc or the other heirs of AVMWC stock and AVMWC will remain as a named party to this case.

Dennis VanSyoc was not named as a party in this matter because of his ownership interest in the AVMWC. He was named as a defendant because it was initially thought that he might hold a riparian water right under California law. However, it was later determined that he did not, and he was dismissed as a party on September 9, 2014 pursuant to ECF No. 2074 at p. 5.

ECF No. 2452 – Notice (Reiko Hervin and Patricia Hervin):

After discussion with counsel, the court will take no further action on ECF No. 2452.

IT IS ORDERED that if the personal representatives of or the heirs of Reiko and/or Patricia Hervin wish to take further action in this case, they must act through counsel and comply with the applicable requirements of Rule 25 of the Federal Rules of Civil Procedure concerning Substitution of Parties.

ECF Nos. 2458 – Motion/Letter to be removed from e-mail notifications and 2486 - Order:

In ECF No. 2458, Mr. Phillip Tucker and Ms. Dona Tucker, identified as “trustees” of the “AAPSM Trust,” advised they (whether individually or as trustees is not known) sold the property at 57 Desert View, Smith Nevada, and are “no longer interested parties to this litigation” and seek to be removed from the court’s email service list.

Mr. Eastman advises the court that despite the Tuckers’ letter advising they have divested themselves of certain property, Phillip E. Tucker and Dona C. Tucker remain as individual parties; the AAPSM Trust is not and never has been a party to this action. The court and counsel concur that Phillip E. Tucker and Dona C. Tucker remain as parties to this action.

Mr. and Ms. Tucker also requested removal from the email notification service list. To the extent the Clerk has not already done so in accordance with ECF No. 2486, the Clerk will remove Phillip E. Tucker and Dona C. Tucker from the email notification service list after the final Minutes of Proceedings are filed and placed on the docket. However, being removed from the email list will not effect a dismissal of the Tuckers from this case.

IT IS FURTHER ORDERED that Tuckers, individually or as trustees, may seek to be dismissed from this case by substituting their successor-in-interest as a defendant, but must do so, if acting individually by following the substitution process outlined in Order (ECF No. 2556) utilizing the attached Form A (ECF No. 2556-1). If they are acting as trustees of a trust, they must act through counsel and comply with the applicable requirements of Rule 25 of the Federal Rules of Civil Procedure concerning Substitution of Parties.

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ECF No. 2460 – Motion/Letter to be removed from the email list:

In ECF No. 2460, Ms. Marcia Anderson advises the court she was trustee of the Sabatino Trust which owned but has sold property located at 335 N. River Lane, Coleville, CA. Ms. Anderson seeks to be removed from the Clerk's email service list.

After discussion with principal counsel, it is determined that Sabatino Trust remains a party to this action. The motion (ECF No. 2460) requesting Marcia Anderson, trustee of the Sabatino Trust be removed from the email notification service list is **granted** but the Trust remains a party to this litigation.

IT IS FURTHER ORDERED that the Clerk remove Marcia Anderson from the email notification service list after the final Minutes of Proceedings are filed and placed on the docket. The Sabatino Trust remain as a party to this action unless and until it takes action via counsel to effect a substitution of a party.

ECF Nos. 2475 – Motion/Notice of Change of Ownership of Water Right and 2487 – Order:

In ECF No. 2475, John H. Felber, Trustee of the John H. Felber Trust, advises the Felber Trust conveyed ownership of the water rights of the Felber Trust to the Elizabeth Hayden Separate Property Trust. The court's minute order (ECF No. 2487) incorrectly stated that upon notification of the email address for the Hayden Trust that the court's docket would delete the Felber Trust and substitute the Hayden Trust.

The court discusses with counsel for the principal parties whether the Order (ECF No. 2487) should be vacated to the extent there was change in ownership which the court stated it would recognize on the docket. The court concluded the John H. Felber Trust remains a party to this action, and not Elizabeth Hayden Separate Property Trust; ECF No. 2487 is amended accordingly.

